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2 **UNITED STATES DISTRICT COURT**
3 **DISTRICT OF NEVADA**

4 HDMI LICENSING ADMINISTRATOR, INC.,)
a Delaware limited liability company,)

5 Plaintiff,)

6 v.)

7 BBEN INTELLIGENT TECHNOLOGY INC., a)
8 Chinese company,)

9 Defendant.)

Case No.: 2:18-cv-041-APG-NJK

**TEMPORARY RESTRAINING
ORDER AND SEIZURE
ORDER**

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11 Plaintiff, HDMI Licensing Administrator, Inc. (“HDMI LA”), has moved *ex parte*
12 for a Temporary Restraining Order, Seizure Order, and a Preliminary Injunction, pursuant
13 to Rule 65 of the Federal Rules of Civil Procedure, and Local Rule 7-5. HDMI LA alleges
14 that BBEN Intelligent Technology Inc. (“BBEN”) has made, imported into the United
15 States, sold, offered to sell, distributed, promoted, and/or advertised at the International
16 Consumer Electronics (“CES”) trade show in Las Vegas, Nevada, consumer electronic
17 products bearing HDMI LA’s registered federal trademarks (“HDMI Trademarks”). The
18 Court, having duly considered HDMI LA’s Complaint, Emergency Motion for *Ex Parte*
19 Temporary Restraining Order, Seizure Order, and Preliminary Injunction, and the
20 declaration and exhibits submitted therewith, hereby makes the following findings and
21 conclusions:

22 1. HDMI LA is likely to succeed on the merits of its trademark infringement
23 and trademark counterfeiting claims. HDMI LA is likely to succeed in showing that the
24 HDMI Trademarks are owned by HDMI LA, are valid and enforceable, and that BBEN has
25 imported into the United States, sold, offered to sell, distributed, promoted, and/or
26 advertised products bearing the HDMI Trademarks.

27 2. It appears to the Court that BBEN is a China-based manufacturer of
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1 consumer electronic products that, with the exception of its temporary presence in Las
2 Vegas during the CES show, does not have a regular place of business or assets in the
3 United States. Further, HDMI LA has notified BBEN of the potential for this action in
4 written communications prior to the beginning of CES in the event BBEN imported,
5 displayed, advertised, or offered to sell products bearing HDMI Trademarks at CES
6 without permission or authorization from HDMI LA.

7 3. Absent an *ex parte* temporary restraining order and seizure order, BBEN's
8 importation, sale, and/or offers to sell its products will result in immediate and irreparable
9 injury to HDMI LA in the form of loss of control over its valuable intellectual property
10 rights, loss of consumer goodwill, and interference with HDMI LA's ability to exploit the
11 HDMI Trademarks. Further, because BBEN has no presence in the United States, it may be
12 difficult or impossible for HDMI LA to recover a money judgment against BBEN.

13 4. The harm to HDMI LA in denying the requested temporary restraining order
14 and seizure order outweighs the harm to the legitimate interests of BBEN from granting
15 such relief.

16 5. The public interest weighs in favor of granting HDMI LA the requested
17 temporary restraining order and seizure order.

18 6. BBEN's infringing products and materials evidencing BBEN's
19 infringements alleged in the Complaint are in BBEN's possession at the CES show
20 currently taking place in Las Vegas, Nevada, but these materials would likely be destroyed,
21 moved, hidden, or otherwise made inaccessible to the Court if HDMI LA were to proceed
22 on notice to BBEN.

23 **TEMPORARY RESTRAINING ORDER**

24 IT IS THEREFORE ORDERED that, pending a decision by the Court on HDMI
25 LA's application for a preliminary injunction, BBEN and its officers, agents, servants,
26 employees, and attorneys; and all other persons acting in active concert or participation
27 with any of them, are hereby immediately, temporarily restrained from infringing the
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1 HDMI Trademarks at the CES show in Las Vegas, Nevada, from January 9-12, 2018.
2 Specifically, BBEN is hereby temporarily restrained from promoting, selling or offering to
3 sell any products that bear the HDMI Trademarks, either on its packaging or displayed
4 during the product's use, such as on a computer screen. In addition, BBEN is hereby
5 temporarily restrained from transferring, moving, returning, destroying, or otherwise
6 disposing of any infringing products or evidence of infringement except pursuant to the
7 below Seizure Order.

8 **SEIZURE ORDER**

9 IT IS FURTHER ORDERED that any evidence of BBEN's infringing conduct,
10 including (a) any products bearing the HDMI Trademarks, either on the product, its
11 packaging, or during the product's use, (b) any materials or advertisements promoting the
12 sale of products using the HDMI Trademarks, such as promotional displays or brochures,
13 (c) any products advertised through use of or association with the HDMI Trademarks, and
14 (d) any records showing BBEN's sales and offers to sell any of the foregoing products
15 (collectively, "Materials") shall be seized by the United States Marshal or the Sheriff or
16 any Constable of the County of Clark, Nevada, assisted by one or more attorneys for or
17 representatives of HDMI LA, at the booth rented or occupied by BBEN at the CES trade
18 show in Las Vegas, Nevada, during the period of January 9 to 12, 2018. If HDMI LA
19 identifies more infringing products, they can petition the Court to amend this Order.

20 The United States Marshal or the Sheriff or any Constable of the County of Clark,
21 Nevada may use all reasonable force in conducting the seizure, including turning on any
22 electronic devices to determine if the device uses or displays the HDMI Trademarks and
23 opening any doors, locks, boxes, brief cases, or containers of any type or nature to locate
24 and identify Materials to be seized. Attorneys and other representatives of HDMI LA shall
25 accompany the United States Marshal or the Sheriff or any Constable of the County of
26 Clark, Nevada during the seizure to identify the Materials to be seized. HDMI LA's
27 counsel shall itemize and take possession of the seized Materials, provide a copy of the
28 inventory to the United States Marshal or the Sheriff or any Constable of the County of

1 Clark, Nevada, and file the inventory with the Court. In addition, HDMI LA's counsel may
2 record the contents of BBEN's booth and Materials by photographic and/or videographic
3 means during the seizure action. The United States Marshal or the Sheriff or any Constable
4 of the County of Clark, Nevada shall not retain custody of seized Materials. HDMI LA
5 agrees to indemnify the United States Marshal or the Sheriff or any Constable of the
6 County of Clark, Nevada and hold it harmless from any suit, claim, cause of action,
7 damage, loss, or injury arising from the execution of the seizure described in this Order.

8 IT IS FURTHER ORDERED that this Order and the Summons and Complaint must
9 be served upon BBEN, if found, at the time of the seizure, and by other means reasonably
10 calculated to give BBEN notice of this action.

11 IT IS FURTHER ORDERED that, HDMI shall deposit \$ 10,000 with the Clerk
12 of the Court as security for this order. To the extent BBEN believes that additional security
13 is necessary pursuant to Rule 65(c), Fed. R. Civ. P., BBEN shall file an application to the
14 Court and provide notice to counsel for HDMI LA.

15 IT IS FURTHER ORDERED that a preliminary injunction hearing is set for
16 Wednesday, January 17, 2018, at 2:30 p.m.
17 a.m./p.m., in Courtroom 6C, before Judge Andrew P. Gordon
18 _____.

19 BBEN shall file and serve any opposition to HDMI LA's motion for a preliminary
20 injunction on or before January 16, 2018.

21 HDMI LA shall file and serve any reply in support of their motion for a preliminary
22 injunction on or before _____, 2018.

23 **SIGNED AND ENTERED** this 9th day of January, 2018 at 2:00 p.m.

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26 **UNITED STATES DISTRICT JUDGE**